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Item 118 of the provisional agenda*
Right of peoples to self-determination

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Report of the Secretary-General**

Summary

In its resolution 57/197 of 18 December 2002, the General Assembly, inter alia, requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation, and requested the Secretary-General to report on this question to the General Assembly at its fifty-eighth session under the item "Right of peoples to self-determination".

* A/58/150.

** The present report was submitted five days beyond the deadline of 18 July in order to finalize internal consultations on the material to be included in it.

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I. Introduction

1. On 22 May 2003, the Secretary-General addressed a note verbale to all Governments drawing their attention to resolution 57/197 and requesting them to submit any pertinent information relating to it.

2. To date, the Office of the United Nations High Commissioner for Human Rights has received one reply in response to the above note of the Secretary-General.

3. The present report contains a summary of the reply received as well as an account of the consideration of the issue "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at the fifty-ninth session of the Commission on Human Rights.

II. Reply of the Government of Georgia

4. On 30 June 2003, information provided by the Office of the Deputy Secretary of the National Security Council of Georgia on Human Rights Issues was transmitted to the Office of the United Nations High Commissioner for Human Rights. The reply stated, inter alia, that the constitution and legislation of Georgia confirmed the country's territorial integrity and the inviolability of its State borders. Under the constitution, questions of local importance to Georgian citizens were settled through local self-government, without undermining the sovereignty of the State. Once the necessary conditions had been established throughout the national territory and once local self-government bodies had been set up, a bicameral Parliament, consisting of the Council of the Republic and the Senate, is to be established. The Council of the Republic is composed of deputies elected on the basis of a proportional system. The Senate is composed of members from Abkhazia, the Ajar Autonomous Republic and other territorial entities within the country as well as five senators appointed by the President of the country (see article 4 of the constitution). The entry into force of article 4 had been impeded by the lack of a settlement of the conflict in Abkhazia and the Tskhinvali region (the former South Ossetian Autonomous Region). After debates in March 2000 and October 2002, Parliament constitutionally defined Ajara and Abkhazia as autonomous republics within the State of Georgia and corresponding amendments were made to the constitution. The most difficult and painful problem Georgia faced in nation-building continued to be the failure to restore the country's territorial integrity. The leaders of the self-proclaimed "republics" of Abkhazia and South Ossetia invoked the right to self-determination in their aspirations to separate. Contemporary international law, while recognizing the right to self-determination as applying both to existing States and to minorities within such States, nevertheless repudiated the right of such peoples to secede unilaterally without taking the will of the whole State into account. Throughout the conflicts in Georgia, the international community had consistently supported the principle of the country's territorial integrity and sovereignty. In the case of Abkhazia, that support had been expressed in all resolutions of the Security Council since 1993. The Organization for Security and Cooperation in Europe (OSCE) and the Commonwealth of Independent States (CIS) had also supported Georgia's territorial integrity and sovereignty. A settlement of the conflict concerning Abkhazia could be obtained by determining the region's political status as part of a united Georgia and by repatriating displaced persons. The

Georgian side and the international community were making efforts towards this end, however, the Abkhaz side was prepared to discuss only one question, that of possible relations between two equal and sovereign States, Abkhazia and Georgia. The situation in Abkhazia was more complex than the conflict in the Tskhinvali region. Talks between the Georgian and Ossetian sides aimed at settling that conflict had been more or less regular and international organizations had been involved in the process. Georgia attached priority to settling internal conflicts through peaceful means.

III. Fifty-ninth session of the Commission on Human Rights

5. During its fifty-ninth session, under agenda item 5, the Commission on Human Rights discussed "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation". Three resolutions were adopted by the Commission under item 5: resolution 2003/1 on the "Question of Western Sahara"; resolution 2003/2 on "The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination"; and resolution 2003/3 on the "Situation in Occupied Palestine".

6. Resolution 2003/1 reaffirmed the inalienable right of all peoples to self-determination and independence and recalled Security Council resolutions 658 (1990) and 690 (1991), which approved the settlement plan for Western Sahara. It noted that, despite the progress achieved, difficulties remained in the implementation of the settlement plan. The resolution urged the two parties to implement the agreements reached between Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro for the implementation of the settlement plan during their private talks with the Personal Envoy of the Secretary-General as well as the Secretary-General's package of measures relating to the identification of voters and the appeals process. Resolution 2003/1 reaffirmed the responsibility of the United Nations towards the people of Western Sahara and reiterated support for efforts to organize and supervise a referendum for self-determination of the people of Western Sahara in conformity with resolutions 658 (1990) and 690 (1991).

7. Resolution 2003/2, on "The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination", expressed the conviction that mercenaries or mercenary-related activities were a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples. The Commission welcomed the report of the Special Rapporteur on the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination and requested the Office of the High Commissioner to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and to assist affected States as requested.

8. Resolution 2003/3 on the "Situation in Occupied Palestine" reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State, and looked forward to the early fulfilment of that right.